

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDY J. BATTISTA,

Plaintiff,

v.

HAROLD W. CLARKE,
KATHLEEN M. DENNEHY,
ROBERT MURPHY,
TERRE K. MARSHALL, and
SUSAN J. MARTIN, in their official and individual
capacities;

Defendants.

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) Civil Action No.
) 05-11456-DPW

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) **ORAL**
) **ARGUMENT**
) **REQUESTED**
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PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

Plaintiff, Sandy J. Battista ("Ms. Battista"), hereby moves pursuant to Fed. R. Civ. P. 26(c) for a protective order limiting the scope of discovery to matters relating to the Massachusetts Department of Corrections' (the "DOC") unilateral decision to withhold indefinitely Ms. Battista's treatment for Gender Identity Disorder ("GID"). In furtherance of this Motion, Ms. Battista submits the supporting memorandum of law and states:

1. The disputed discovery is irrelevant to the DOC's initial grounds for withholding Ms. Battista's GID treatment – that it needed to perform a "security" review.
2. The disputed discovery is irrelevant to the DOC's current stated purpose of challenging Ms. Battista's GID diagnosis because DOC regulations prohibit the DOC from questioning medical diagnoses.

3. Even if it were appropriate for the DOC to challenge Ms. Battista's diagnosis, the disputed discovery goes far beyond the boundaries of potentially relevant information.

WHEREFORE, Ms. Battista respectfully requests that this Court issue a protective order prohibiting defendants from:

- (a) discovery of her juvenile records;
- (b) inquiring at her deposition into the details of her childhood except as it relates to her memory of behaviors noted in the various medical records as associated with GID or symptoms otherwise relevant to her GID;
- (c) obtaining the blanket releases demanded in its Request for Production of Documents; and
- (d) obligating Ms. Battista to gather and produce records of medical and mental health treatment prior to incarceration.

Ms. Battista also requests that the protective order require defendants to extend the simple courtesy of respecting her preference for being referred to as a female.

Dated: February 29, 2008

Respectfully submitted,

SANDY J. BATTISTA

by her attorneys,

/s/ Dana M. McSherry

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on February 29, 2008.

/s/ Dana M. McSherry

Dana M. McSherry